

1 Department of Conservation and Recreation  
2 Procedural Guidelines for Land Conservation Tax Credits Conservation Value Review  
3 Adopted by DCR Director on December 22, 2006  
4

5 **A. Reporting information for all donations of land or interests in land, regardless of the**  
6 **amount of tax credits**  
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8 Pursuant to Virginia Code § 58.1-512(D)(1), the taxpayer must provide the following  
9 information (collected on forms developed by the Virginia Department of Taxation and  
10 provided to the Department of Conservation and Recreation (DCR) pursuant to Virginia  
11 Code § 58.1-512(D)(1)) for all donations of land or conservation easements for which tax  
12 credits are claimed:  
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- 14 1. A description of the land or easement being donated, including acreage, types of land  
15 uses such as forestry, agriculture, or recreation, and property features such as  
16 waterways, wetlands, or historic resources;  
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- 18 2. A description of the conservation purpose(s) being served by the donation;  
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- 20 3. A statement of the fair market value of the land being donated in the absence of any  
21 easement or other restriction;  
22
- 23 4. The public benefit derived from the donation, i.e., how a conservation easement will  
24 protect the property's resources or how ownership of the property by a public or private  
25 conservation agency benefits the public;  
26
- 27 5. The extent to which water quality best management practices will be implemented on the  
28 property; and  
29
- 30 6. Whether the property is fully or partially forested and whether a forest management plan  
31 is included in the terms of the donation.  
32

33 **B. Review of donations seeking tax credits of \$1 million or more**  
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- 35 1. Donations of land in fee simple, including bargain sales:  
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37 To qualify for a tax credit under Virginia Code § 58.1-512, any donation of a fee simple  
38 interest in real property to a public or private conservation agency (including a bargain  
39 sale) that involves a tax credit application for \$1 million or more must be documented  
40 with adequate information demonstrating that the agency's ownership of the land  
41 provides conservation value to the Commonwealth in perpetuity. This documentation  
42 shall include:  
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- 44 ▪ The conservation agency's reasons for accepting the donation;  
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- 46 ▪ How the donation meets at least one of the conservation purposes set out in Section  
47 A of the Land Preservation Tax Credits – Conservation Value Review Criteria;  
48
- 49 ▪ The public benefit derived from the donation, that is, how the public will benefit from  
50 the protection of the property's conservation values;  
51
- 52 ▪ The extent to which water quality best management practices will be implemented on  
53 the property; and  
54

- 55           ▪ Whether the property is fully or partially forested and a forest management plan is  
56           included in the terms of the donation.  
57

58           For donations to private conservation agencies, the documentation must also affirm that  
59           the conservation agency agrees that if it ever subsequently conveys its fee-simple  
60           interest in the property, such a conveyance will be either a) subject to a conservation  
61           easement pursuant to Va. Code §§ 10.1-1009 or 10.1-1700, or b) made to the  
62           Commonwealth of Virginia or to a federal conservation agency pursuant to Va. Code §  
63           58.1-512(C)(5).  
64

- 65           2. Donations of less-than-fee interests in land (conservation easements): The taxpayer  
66           shall complete and submit the form required by the Virginia Department of Taxation,  
67           accompanied by a written statement from the easement holder attesting to the accuracy  
68           of the information related to the conservation value criteria. A complete application  
69           package must include the conservation easement deed and baseline documentation  
70           report as required by Internal Revenue Regulations § 1.170A-14.  
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72           **C. Verification procedures by the Department of Conservation and Recreation**  
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74           To verify the conservation purpose of land or conservation easement donations seeking tax  
75           credits of \$1 million or more, in accordance with Virginia Code §§ 58.1-512, 58.1-512.1, and  
76           581-513, the Director of DCR shall:  
77

- 78           1. Review the LPC form required by the Virginia Department of Taxation, the deed of  
79           conservation easement, the baseline documentation report, and any other  
80           documentation required to be submitted by the taxpayer, such as documentation that  
81           confirms that the donation has not been dedicated as open space in, or as part of, a  
82           residential or commercial subdivision or development, or dedicated as open space for  
83           the purpose of fulfilling density requirements to obtain approvals for zoning, subdivision,  
84           site plan, or building permits;  
85
- 86           2. Require an officer of the organization that holds the conservation easement to certify to  
87           the Director of DCR that the information on the application related to conservation value  
88           is accurate;  
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- 90           3. Verify the information with existing natural-resource and historic databases, as  
91           applicable;  
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- 93           4. Conduct a site visit of the property, if necessary;  
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- 95           5. Consult with other agencies and organizations as needed to ensure that the deed of  
96           easement provides appropriate protection for the resources;  
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- 98           6. Complete the review within 90 days, pursuant to Virginia Code § 58.1-512; and,  
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- 100          7. Issue a letter of determination in writing to the Department of Taxation with copies to the  
101          taxpayer and to the conservation easement holder.  
102

103          **D. Pre-filing review**  
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105          In order to facilitate successful applications for tax credits of \$1 million or more, the Director  
106          of DCR will offer an optional review to verify conservation value prior to recordation of the  
107          easement.  
108

109 The pre-filing review will be available upon request to any donor who has submitted  
110 documentation that includes the following:

- 111
- 112 1. A completed LPC tax form as required by the Virginia Department of Taxation, and other  
113 documentation as set out in Section C(1) above;
  - 114 2. Confirmation of approval of the conservation easement document by its holder; and
  - 115 3. Confirmation that donation of the easement will produce tax credits of \$1 million or more.  
116 Such confirmation can include a preliminary valuation or a full appraisal that states the  
117 value of the conservation easement is approximately \$2.5 million or more.  
118
- 119

120

121 The Director of DCR will consult with other agencies and organizations as needed to ensure  
122 that the deed of easement provides appropriate protection for the resources. Requests will  
123 be handled in the order they are received and every attempt will be made to complete  
124 reviews within 90 days, although review of recorded easements will receive priority handling.  
125

126 Reliance on the pre-filing review will be predicated on the recording of the easement  
127 document in a form consistent with the DCR review.  
128

129 ***E. Review of conservation easements accepted by the Department of Conservation and***  
130 ***Recreation***

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132 In the event that a donation of land or conservation easement donations involving a tax  
133 credit of \$1 million or more is made to the Department of Conservation and Recreation, the  
134 Director may request an advisory opinion from either the Virginia Land Conservation  
135 Foundation or its Chairman that the deed of easement provides conservation value  
136 consistent with the Conservation Value Review Criteria approved by the VLCF Board on  
137 November 21, 2007. The VLCF annual report shall specifically note which donations were  
138 made to the Department of Conservation and Recreation.